

BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991  
AND waivers and directions under section 281 of  
the Act  
MARLBOROUGH DISTRICT COUNCIL  
Consent Authority

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MINUTE (26 February 2020)

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**Introduction**

[1] The court has received notice that on Friday 21 February 2020 the Marlborough District Council ('MDC') publicly notified its decision on the Proposed Marlborough Environment Plan ('PMEP').

[2] The MDC website currently states that the appeal period ends on 3 April 2020 (being 30 working days after Friday's notification). Concerns have been raised about the tracked changes version of the MEP not being made available until Friday 28 February 2020 and the appeal period commencing too soon. The court considers this a valid concern for submitters so will use its powers under s281 of the RMA to make a broad waiver to cover off any prejudice (which the MDC have consented to).

[3] Any potential appellants and s274 parties should note that the filing fee for lodging an appeal is \$511.11 and there is no filing fee for joining an appeal under s274. (The new filing fees on the website relate to proceedings that commenced with the Council post-September 2017).

[4] There have also been some enquiries as to the registry for lodgement of appeals. Case management will be from the Christchurch registry. Appeals can be filed in Christchurch, and this is preferable. As the regulations still state the Wellington Registry as the registry for Marlborough, appeals duly filed in Wellington will be accepted and the court will ensure these are passed to the Christchurch Registry (details of the Christchurch Registry are set out under the directions below).



[5] With a view to helping clarify and simplify appeal and s274 processes for those concerned, the MDC intends to continue to update its webpage such that all notices of appeal and s274 notices are uploaded as soon as possible. This will enable the court to waive the requirement that notices of appeal and s274 notices be served on all submitters/parties.

[6] General procedure set out in *re Auckland Council* [2016] NZEnvC 153 can be usefully followed in respect of service requirements and the maintenance of the MDC's website. This process has been successfully used in Queenstown District Plan proceedings. Therefore, I will make the following directions.

### Directions

[7] Accordingly, under s281 of the RMA, I direct:

- (1) the appeal period is extended to 30 working days following the issue of the MDC tracked changed version of the MEP i.e. if the MDC issue it on Friday 28 February 2020 as suggested, then the appeal period will end on 14 April 2020.
- (2) notices of appeal:
  - (a) notices of appeal (in relation to the MDC decisions on the PMEPP) must be:
    - (i) lodged with the Environment Court electronically by email to: [Christine.McKee@justice.govt.nz](mailto:Christine.McKee@justice.govt.nz) and by posting one hard copy to: Environment Court, PO Box 2069, 20 Lichfield Street, Christchurch;
    - (ii) served on the Council electronically by email to: [Kaye.McIlveney@marlborough.govt.nz](mailto:Kaye.McIlveney@marlborough.govt.nz); and
    - (iii) served on the person who made the original submission which is the subject of the appeal, and every person who made a further submission on the same original submission;
  - (b) service of the notice of appeal on every other person (not being an original or further submitter – all of whom are to be served in accordance with paragraph [7](2)(a) above) – who made a submission on the PMEPP will be deemed to be effected by the MDC uploading copies of all notices of appeal onto its website within five working days after the appeal period closes.



- (3) section 274 notices:
- (a) s274 notices must be:
    - (i) lodged with the court electronically by email to [Christine.McKee@justice.govt.nz](mailto:Christine.McKee@justice.govt.nz);
    - (ii) served on the Council to: [Kaye.McIlveney@marlborough.govt.nz](mailto:Kaye.McIlveney@marlborough.govt.nz); and
    - (iii) served on the appellant on any email address provided in the notice of appeal;
  - (b) the requirement to lodge a signed original and one hard copy of any s274 notice with the court is waived;
  - (c) the requirement for s274 parties to serve their notice/form 33 on all other parties is waived;
  - (d) s274 notices must be served within 20 working days after the period for lodging a notice of appeal ends. The requirement for s274 parties to serve their notice within 15 working days after the period for lodging a notice of appeal ends is waived since the MDC has five working days to upload all the appeal notices;
  - (e) service of s274 notices on all other parties will be deemed to be effected by the MDC uploading copies of s274 notices onto its website within ten working days after the s274 period closes.

#### Other matters

[8] Leave is reserved for any party, appellant or s274 party to apply for further (or other) directions.

[9] The court envisages further directions as to the allocation of topics, any preliminary issues, questions of law, mediation, expert conferencing and general case management being issued in due course (or at a pre-hearing conference following the close the of s274 period).




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**J J M Hassan**  
Environment Judge



Issued: 26 February 2020